

September 8, 2003

Mr. Bill Bush  
Director, Mental Health Capitation Program  
Colorado Department of Human Services  
Mental Health Services  
3824 West Princeton Circle  
Denver, CO 80236

Dear Mr. Bush:

I am responding to your memorandum dated February 25, 2003, in which you requested that your Medicaid Mental Health Capitation and Managed Care section 1915(b) waiver be modified to add a new waiver that would permit the State of Colorado to adopt an approach to the provision of information to beneficiaries that does not conform to the requirements in the Medicaid Managed Care (MMC) Regulation at 42 CFR sections 438.10(f) and (g).

Specifically, the State proposes to send only introductory information to all enrollees on how to access more detailed information about the Prepaid Inpatient Health Plan (PIHP) that provides mental health services, and to furnish full member handbooks only to those who actually use mental health services.

The MMC regulations, at sections 438.10(f) and (g), require that all PIHP enrollees receive information on: disenrollment rights, right to request and obtain information, notice of significant changes, provider termination notice, list of providers and specialists with languages spoken, freedom of choice restrictions, benefit amount, duration, and scope, emergency services information, post-stabilization care services, cost sharing, how to obtain uncovered services, grievance, appeals and fair hearing procedures and timeframes. The State's proposal is clear about not sending its PIHP enrollees the all of the listed informational items as required by the regulations.

After careful consideration, the Centers for Medicare & Medicaid Services concluded that the State proposal would not provide an acceptable basis for waiving the requirements of sections 438.10(f) and (g). CMS offered an alternative for consideration by the State. Under this alternative, the beneficiary information to be sent to enrollees of PIHPs who are not receiving services must meet all the information requirements in sections 438.10(f) and (g) as stated in the regulations, with the exception of the mental health provider directory, which will be provided to those enrollees upon request. Instructions, a toll-free number, and a postage paid card would be provided for enrollees to request a mental health provider directory. This exception would not apply for those enrollees who are receiving services. The State responded that this alternative would not satisfy their concerns.

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I am disapproving your request for a modification to your waiver because we do not believe that the State's alternative approach would "equal or exceed" the protections under the MMC regulations. I have concluded that requiring enrollees to take additional steps in order to obtain the information required under the regulations does not meet this guideline.

Please refer additional correspondence concerning this matter to Glenn A. Stanton, Acting Director, Disabled and Elderly Health Programs Group, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop S2-14-26, Baltimore, Maryland 21244-1850.

Sincerely,

/s/

Thomas A. Scully

cc:

Cindy Smith, CMS, Denver Regional Office